



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/170305

PRELIMINARY RECITALS

Pursuant to a petition filed November 16, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Community Care Inc. in regard to Medical Assistance, a hearing was held on December 15, 2015, at Milwaukee, Wisconsin.

There remains no issue for determination.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Evie LaShay

Community Care Inc.
205 Bishops Way
Brookfield, WI 53005

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Milwaukee County. The petitioner is currently in a nursing home. She was hospitalized on November 19, 2015. Following her hospitalization she was transferred to a nursing home. She has not yet transitioned home.

2. On October 5, 2015 and October 19, 2015 the Family Care team went to the petitioner's home. The Family Care team completed an in home assessment tool and resource allocation decision tool. The petitioner was received 143 hours per month for supportive home care. The team concluded that the petitioner's supportive home care needs decreased to 53 hours per month. This reduction was in the areas of housekeeping, meal preparation, toileting, and transferring. The reduction in the area of housekeeping and meal preparation was because the petitioner's daughter reported living with the petitioner. The Family Care team further concluded that the petitioner was independent in the areas of toileting and transferring.
3. On November 3, 2015 the agency sent the petitioner a notice stating that effective November 18, 2015 the petitioner's SHC hours would be reduced from 143 hours per month to 53 hours per month.
4. Prior to the implementation of the reduction of SHC, the petitioner became hospitalized. Following her hospitalization, she was sent to a nursing home. The petitioner continues to be in a nursing. She is not eligible for SHC while hospitalized and while in a nursing home.
5. When the petitioner is released from the nursing home, the Family Care team will do another assessment of the petitioner's need and re-determine her SHC hours based upon her needs at that time.
6. The Division of Hearings and Appeals received the petitioner's Request for Fair hearing on November 24, 2015.

DISCUSSION

The Family Care program, which is supervised by the Department of Health Services, is designed to provide appropriate long-term care services for elderly or disabled adults. It is authorized in the Wisconsin Statutes, §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter DHS 10. The Managed Care Organization (MCO) must develop an Individual Service Plan (ISP) in partnership with the client. Wis. Admin. Code, §DHS 10.44(2)(f). The ISP must reasonably and effectively address all of the client's long-term needs and outcomes to assist the client to be as self-reliant and autonomous as possible, but nevertheless must be cost effective. Wis. Stat., §46.287(2)(a)1 provides that a person may request a fair hearing to contest the denial of eligibility for the program and the reduction of services under the FCP program, among other things, directly to the Division of Hearings and Appeals.

The agency was in the process of reducing the petitioner's Supportive Home Care (SHC) hours. The petitioner and her daughter disagreed with the reduction. The agency sent the petitioner a notice stating that they would be reducing her SHC hours. The petitioner's daughter submitted a Request for Fair Hearing challenging that reduction. Generally, I would decide whether or not the reduction in SHC hours was correct. This case is unusual in that prior to the implementation of the agency's reduction, the petitioner became hospitalized. She was moved directly from the hospital to a nursing home. She has not yet been released from the nursing home. She is not eligible for SHC while she resides in a skilled nursing facility. When the petitioner is released from the nursing home, the Family Care team will do another assessment of the petitioner's need and re-determine her SHC hours based upon her needs at that time. Thus, there remains no issue for my determination.

I note that the petitioner's daughter expressed dissatisfaction with Community Care. She stated that her mother may seek another Family Care provider prior to her release from the nursing home. These issues are outside of the scope of my review. The only issue before me was the reduction of SHC. This reduction was never implemented because the petitioner became hospitalized, and there remains no issue for determination.

CONCLUSIONS OF LAW

There remains no issue for determination.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

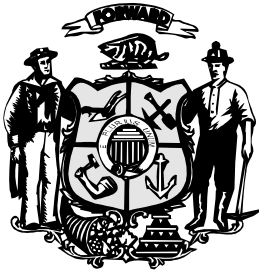
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 16th day of December, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 16, 2015.

Community Care Inc.
Office of Family Care Expansion
Health Care Access and Accountability